



MEMO #: 1670-08

MEMORANDUM

TO: Options Members and Member Organizations
DATE: September 22, 2008
RE: **MARKET MAKERS EXCEPTION AMENDED**

In order to continue to provide liquidity in the markets, the Securities and Exchange Commission has amended their Emergency Order relating to short sales. Based on our reading thus far, the SEC has **extended the options market maker exception through the end of the Order (October 2)**. In addition, the Order now expressly includes in the exception to the short selling prohibition all *bona fide* market making and hedging activity related directly to *bona fide* market making in ETFs and exchange traded notes where the covered securities are a component. **HOWEVER, starting today, a market maker cannot rely on this exception if the MARKET MAKER KNOWS that the customer or counterparty's transaction will result in the customer or counterparty establishing or increasing an economic net short position (actual or through derivatives or otherwise) in the covered securities. To rely on the market maker exception, MARKET MAKERS must put this restriction on their web site AS SOON AS OPERATIONALLY PRACTICABLE.**

The Order was also amended to:

- cover "over-the-counter market makers."
- add more securities to the original list of financial firms and authorize exchanges to add firms that meet certain criteria.
- permit short sales as a result of expiration of futures contracts held before the effectiveness of the Order.
- to except from the Order short sales that occur as a result of assignment to call writers upon exercise, in order to allow for creation of long call options.
- not apply to any person that effects a sale pursuant to Rule 144 of the Securities Act of 1933 in a Covered Security."

The Order is available at <http://sec.gov/news/press/2008/2008-218.htm>